

# **SEC. 645. ONE-YEAR OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.**

## **(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN-**

- (1) ELECTION OF SBP COVERAGE- An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).
- (2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE- An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.
- (3) ELIGIBLE RETIRED OR FORMER MEMBER- For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and--
  - (A) is entitled to retired pay; or
  - (B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.
- (4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS-
  - (A) STANDARD ANNUITY- A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.
  - (B) RESERVE-COMPONENT ANNUITY- A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component

annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP- A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to--

- (1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or
- (2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP-

- (1) ELECTION- A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.
- (2) PERSONS ELIGIBLE- Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.
- (3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION- A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS- An election under this

section shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) **EFFECTIVE DATE FOR ELECTIONS-** Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) **OPEN ENROLLMENT PERIOD-** The open enrollment period under this section is the one-year period beginning on October 1, 2005.

(g) **EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION-** If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) **APPLICABILITY OF CERTAIN PROVISIONS OF LAW-** The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) **PREMIUM FOR OPEN ENROLLMENT ELECTION-**

- (1) **PREMIUMS TO BE CHARGED-** The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of--
  - (A) the total amount by which the retired pay of the

person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

- (B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and
- (C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.
- (2) **PREMIUMS TO BE CREDITED TO RETIREMENT FUND-** Premiums paid under the regulations under paragraph (1) shall be credited to the Department of Defense Military Retirement Fund.

(h) **DEFINITIONS-** In this section:

- (1) The term `Survivor Benefit Plan' means the program established under subchapter II of chapter 73 of title 10, United States Code.
- (2) The term `Supplemental Survivor Benefit Plan' means the program established under subchapter III of chapter 73 of title 10, United States Code.
- (3) The term `retired pay' includes retainer pay paid under section 6330 of title 10, United States Code.
- (4) The terms `uniformed services' and `Secretary concerned' have the meanings given those terms in section 101 of title 37, United States Code.
- (5) The term `Department of Defense Military Retirement Fund' means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.